

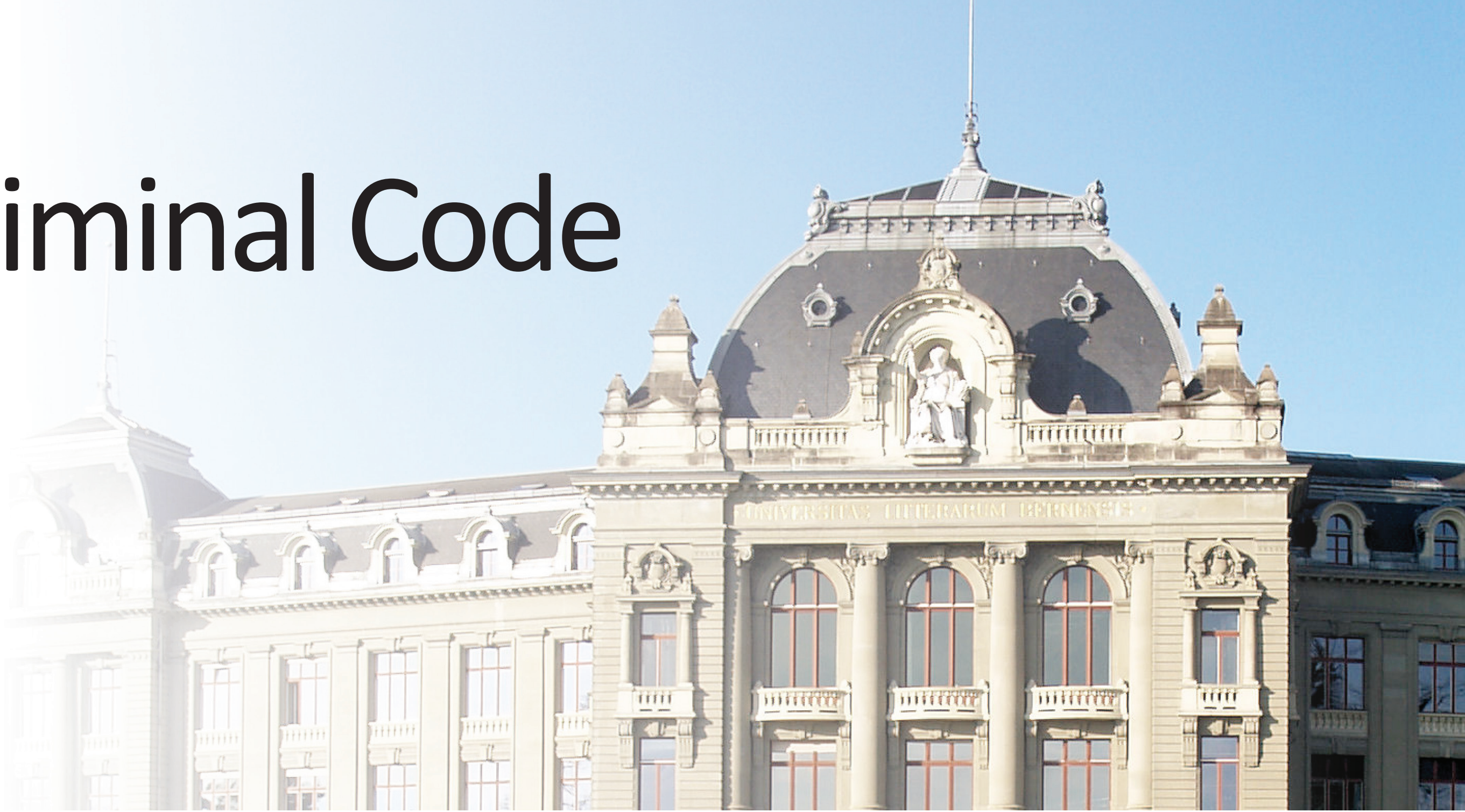
Study on Article 59 of the Swiss Criminal Code

Order and execution of stationary therapeutic measures with focus on secured institutions

Study for the attention of the National Commission for the Prevention of Torture (NCPT)

Project team: Jonas Weber / Jann Schaub / Corinna Bumann / Kevin Sacher

Institute for Criminal Law and Criminology, Faculty of Law, University of Bern



Mandate and Context

Article 59 of the Swiss Criminal Code rules stationary therapeutic measures as to the treatment of offenders suffering from a serious mental disorder.

The National Commission for the Prevention of Torture (NCPT) has mandated the research unit of Professor Jonas Weber (Institute of Criminal Law and Criminology, University of Bern) to review stationary therapeutic measures in secured institutions. The objective of the study is to provide recommendations in order to improve practices as to ordering, implementing and executing the measure.

The study requested by the NCPT has been conducted from November 2013 until April 2015. It deals with stationary therapeutic measures under Article 59 paragraph 3 Swiss Criminal Code and is structured into for different parts.

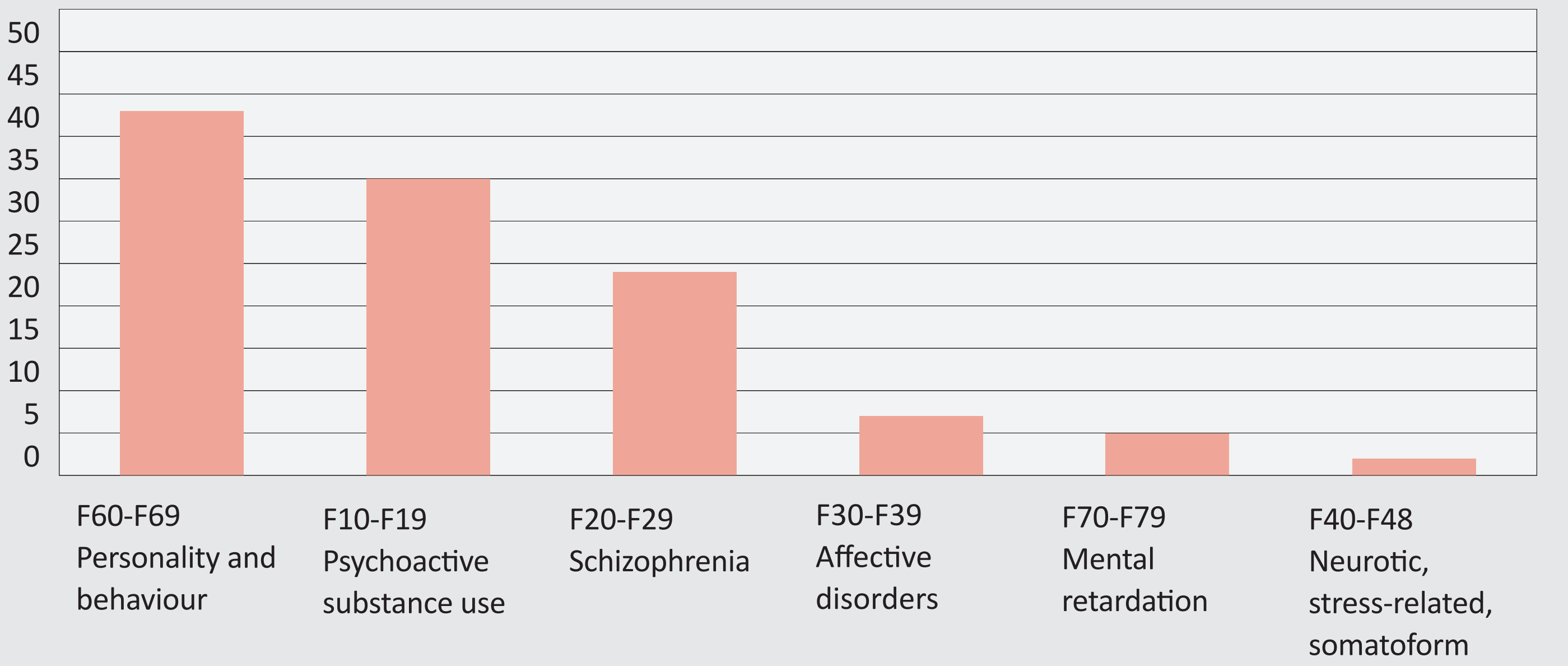
Results

Sociodemographic figures (n=75)

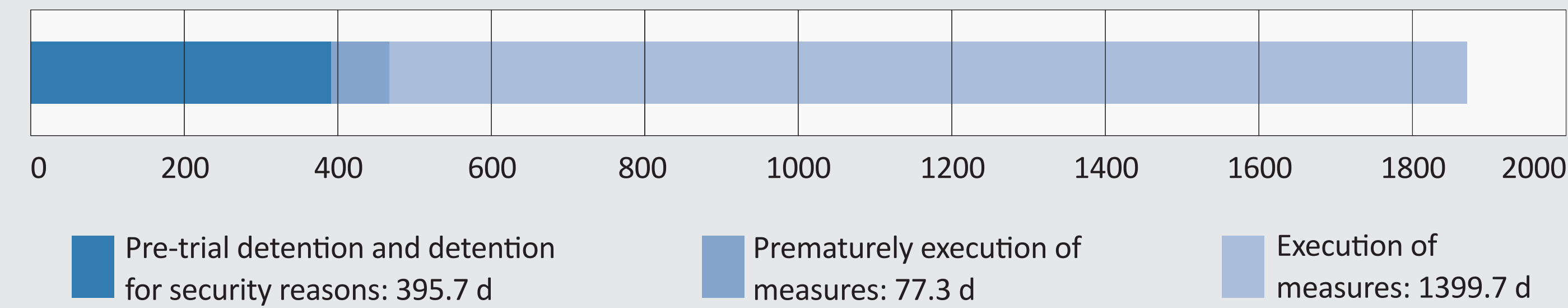
Gender	Sample		Comparative size: Prisons, detention	
	men	96%(n=72)	women	4.7% *
Age	18-24 years old	4%	up to 24 years old	26% **
	25-34 years old	37%	25-34 years old	38%
	35-44 years old	28%	35-44 years old	21%
	45-59 years old	23%	over 44 years	15%
	over 60 years	8%		
Nationality	Swiss nationals	72%	Foreign nationals 73% *	
	Foreign nationals (n=21, 20 Nations)	28%		

* Swiss Federal Statistical Office - convictions statistics: Überblick Kennzahlen 2014 (25.11.2014)
** Swiss Federal Statistical Office - convictions statistics: Vollzug von Sanktionen 2013 (1.9.2014)

Main diagnosis according to forensic psychiatric assessment (absolute values; multiple answers; 73 cases)



Average duration of imprisonment (in days, n=75)



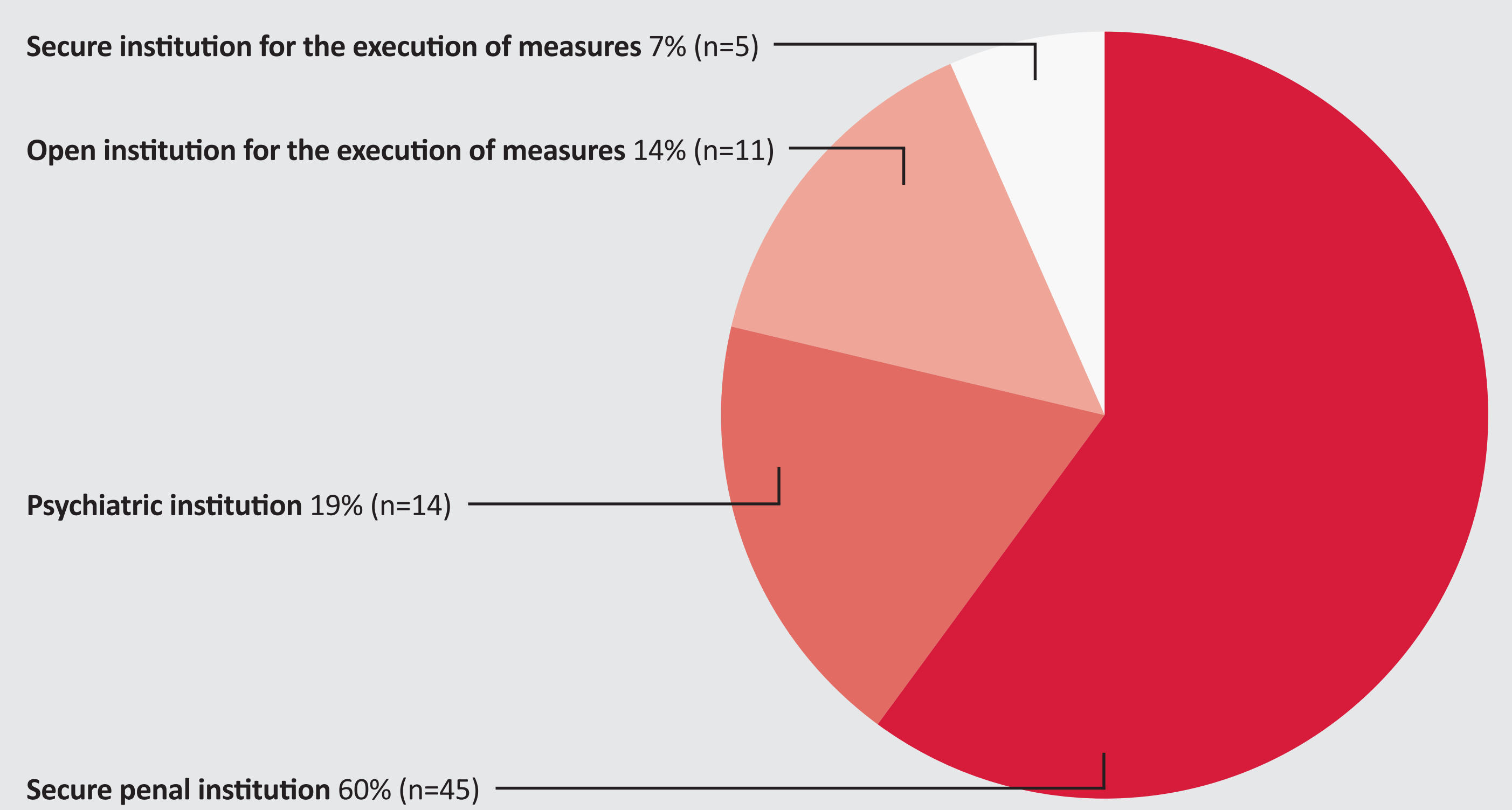
Legal responsibility (committed in forensic-psychiatric assesment, in %, n=75)

Absence of legal responsibility:	18.8 %
Diminished responsibility:	59.4 %
Full legal responsibility:	21.6 %

Methods

- Analysis of specialised literature:** Analysis of specific literature: swiss laws, by-laws, scientific articles and other relevant material.
- Statistical figures:** Collection of statistic key figures with an adapted instrument done by the research team: socio-demographic, criminological, forensic-psychiatric data and also data about the execution of the measures. Data has been collected in a random sample based on 75 cases.
- Qualitative analysis:** Analysis of court decisions, forensic-psychiatric expertise and files from the secured therapeutic institutions for the same 75 cases.
- Expert interviews:** Guideline-based interviews with 10 experts functioning as prison management or management of the implementation of measures.

Type of institution the inmate is currently placed in (n=75)



Main conclusions

- In the view of the research team the new legal basis of article 59 has led to problems concerning the proportionality principle and partly to unclear authority.
- Due to the lack of treatment places inmates can often not be placed in an adequate (therapeutic) setting.
- Due to the lack of possibilities for subsequent solutions (e.g. work outside the institution) the transition between secured and open institutions is minor, which affects parole resp. reintegration.

Recommandations and Publication by the NCPT

The final report is structured into four parts (Literature and materials analysis; Statistical figures; Qualitative analysis; Results of expert interviews). On the basis of the final report the NCPT will draw up recommendations to the cantons. The study will be published by the NCPT in autumn 2016.

